

***What Every Member of the
Trade Community Should Know About:***

***Raw Cotton:
Tariff Classification
and
Import Quotas***



**A Basic Level
Informed Compliance Publication of the
U. S. Customs Service**

PREFACE

On December 8, 1993, Title VI of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), which is also known as the Customs Modernization Act or 'Mod Act', became effective. These provisions amended many sections of the Tariff Act of 1930 and related laws. Two new concepts which emerge from the Mod Act are "***informed compliance***" and "***shared responsibility***." These concepts are premised on the idea that in order to maximize voluntary compliance with Customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the Mod Act imposes a greater obligation on Customs to provide the public with relevant information concerning the trade community's responsibilities and rights under the Customs and related laws. In addition, both the trade and Customs share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act, as amended, (19-U.S.C. §1484) the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and provide any other information necessary to enable Customs to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met. The Customs Service is then responsible for fixing the final classification and value of the merchandise. The failure of an importer of record to exercise reasonable care may lead to delay in the release of merchandise or the imposition of penalties.

My office has been given a major role in meeting Customs informed compliance responsibilities. In order to provide information to the public, Customs intends to issue a series of informed compliance publications, and possibly cd-roms and videos, on topics such as value, classification, entry procedures, determination of country of origin, marking requirements, intellectual property rights, recordkeeping, drawback, penalties and liquidated damages.

The National Commodity Specialist Division of the Office of Regulations and Rulings has prepared this publication on Raw Cotton as one in a series. It is hoped that this material, together with seminars and increased access to Customs rulings, will help the trade community in improving voluntary compliance with the Customs laws.

The information provided in this publication is for general information purposes only. Recognizing that many complicated factors may be involved in customs classification issues, an importer may wish to obtain a ruling under Customs Regulations, 19 C.F.R. 177, or obtain advice from an expert (such as a licensed Customs Broker, attorney or consultant) who specializes in Customs classification. Reliance solely on the general information in this pamphlet may not be considered reasonable care. Comments and suggestions are welcomed, and should be addressed to me at the Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue, NW (Franklin Ct. Bldg), Washington, DC 20229

Stuart P. Seidel
Assistant Commissioner
Office of Regulations and Rulings

INTRODUCTION

Because of the complexity of tariff classifications for raw cotton, further complicated by the several different types of tariff rate quotas that might or might not apply in any given instance, we have developed the following two documents to help importers sort out the various quotas and classifications:

- (1) a general overview of the quotas, and
- (2) a tabular questionnaire to assist in determining which quotas and tariff classifications apply to any particular situation.

1. GENERAL OVERVIEW

THE FOLLOWING GENERAL INFORMATION IS BASED ON THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES ANNOTATED (HTSUSA) AND APPLIES TO IMPORTS ENTERED FOR THE 1996 CALENDAR/QUOTA YEAR. SEE ATTACHED QUESTIONNAIRE AND THE HTSUSA FOR DETAILS.

O Under NAFTA, the quantity of cotton imported duty-free from Mexico is 10,609,000 kilograms for 1996. This quantity will increase annually until the year 2003 when limitations will cease to apply on qualifying goods. Imports above 10,609,000 kilograms in 1996 will pay a higher tariff excluding harsh/rough cotton under 3/4 inches staple length which enters duty-free in unlimited quantities.

O Under the Uruguay Round Agreements Act, Section 22 absolute quotas were replaced by tariff-rate quotas (TRQs) on January 1, 1995. TRQs are a two-tier tariff system under which a specified "in-quota" quantity of an article enters at lower "in-quota" tariff rates, and "over-quota" quantities enter at substantially higher "over-quota" rates. The "in-quota" quantity excludes imports from Mexico and from countries which are not members of the World Trade Organization (WTO), or which are not specifically listed in the quota. The "in-quota" TRQ quantities for cotton are listed under Additional U.S. Notes 5(b), 6(b), 7(b) and 8(b) of HTSUSA chapter 52. The in-quota quantity will increase annually until the year 2000, after which it will remain at the level reached in that year.

O Under the **Special Cotton Import Quota**, a special quota on UPLAND cotton is triggered when the price conditions set forth in section 103B(a)(5)(F) of the Agricultural Act of 1949, as amended, are met, and the United States Department of Agriculture (USDA) issues an announcement which specifies a quantity that may be entered under HTSUSA 9903.5201 - 9903.5220 during a 180-day period following the effective date of such determination and announcement. Announcements may be made on a weekly basis. Imports must be accompanied by: (1) an original certificate from a foreign government agency official of the country of origin attesting that the cotton is of a variety of *Gossypium Hirsutum* (also known as Upland Cotton); (2) an importer certification that the cotton was purchased not later than 90 days after the quota was established; and (3) be entered under the terms and conditions in US Note 6(a) of Subchapter III of Chapter 99 of the HTSUSA. See last paragraph, below, on General Note 15 of the HTSUSA.

O Under the **Special Limited Global Import Quota**, a special quota on UPLAND cotton is triggered when the price conditions set forth in section 103B(n) of the Agricultural Act of 1949, as amended, are met, and USDA issues an announcement which specifies that quantity that may be entered under HTSUSA 9903.5200 during a 90-day period following the effective date of such determination and announcement. Imports must be accompanied by: (1) an original certificate from a foreign government agency official of the country of origin attesting that the cotton is of a variety of *Gossypium Hirsutum* (also known as Upland Cotton); (2) an importer certification that the cotton was purchased not later than 90 days after the quota was established; and (3) be entered under the terms and conditions in US Note 6(b) of Subchapter III of Chapter 99 of the HTSUSA. See last paragraph, below, on General Note 15 of the HTSUSA.

O **General Note 15 of the HTSUSA** states that whenever any agricultural product of chapters 2 through 52, inclusive, is (1) subject to a TRQ, and (2) subject to provisions of subchapter IV of Chapter 99 HTSUSA, entries of such products shall not be counted against the quantities specified as the in-quota quantity. General Note 15(e) specifically lists as an exclusion "cotton entered under the provisions of US Note 6 to Subchapter III of Chapter 99 and subheadings 9903.5200 through 9903.5220 inclusive." Such imports count against the special quota quantity of HTSUSA 9903.5200 through 9903.5220 which are in the USDA announcement(s). Imports are dutiable at the tariff rates under 5201.0012, 5201.0022 or 5201.0055 depending on staple length.

2. QUESTIONNAIRE: HOW TO ENTER RAW COTTON (NOT CARDED OR COMBED, NOT WASTE)

(This questionnaire is based on the HTSUSA as of 4-29-96)

QUESTIONS	IF ANSWER IS YES	IF ANSWER IS NO
1. Is the cotton harsh or rough cotton with a staple length under 3/4 inch?	Enter under 5201.0005 (Duty free)	Go to question 2
2. Is the cotton upland cotton and is a Limited Global Upland Cotton Quota in effect?	Go to question 2(a)	Go to question 3
(a) Is it claimed by importer, certified, and within the 90 day time limit detailed in chapter 99 subchapter III?	Go to question 2(b)	Go to question 3
(b) Is quota open?	Enter under 9903.5200 paired with 5201.0012 or 5201.0022 or 5201.0055 ("in-quota" duty rate)	Go to question 3
3. Is the cotton upland cotton and is a Special "Weekly" Upland Cotton Quota in effect?	Go to question 3(a)	Go to question 4
(a) Is it claimed by importer, certified, and within the 90 day & 180 day time limits detailed in chapter 99 subchapter III?	Go to question 3(b)	Go to question 4
(b) Is quota identified by the announcement number (and chosen by the importer) open?	Enter under 9903.5201-9903.5220 paired with 5201.0012 or 5201.0022 or 5201.0055 ("in-quota" duty rate).	Go to question 3(c)
(c) Is another "weekly" quota under a different announcement number still open and does importer wish to enter under it?	Re-apply for entry under another "weekly" quota that is still open and enter under 9903.5201-9903.5220 paired with 5201.0012 or 5201.0022 or 5201.0055 ("in-quota" duty rate).	Go to question 4
4. Is the cotton of Mexican origin?	Go to question 4(a)	Go to question 5
(a) Is it harsh or rough and as detailed in chapter 99 subchapter VI US note 24?	Enter under 9906.5201 paired with 5201.0038 (duty free)	Go to question 4(b)
(b) Is quota listed in Chapter 99 Subchapter VI US Note 25 still open?	Enter under 9906.5205 paired with 5201.0018 or 5201.0028 or 5201.0038 or 5201.0080 (duty free)	Enter under 9906.5206 or 9906.5207 (depending on value) paired with 5201.0018 or 5201.0028 or 5201.0038 or 5201.0080 ("over-quota" duty rate)

QUESTIONS	IF ANSWER IS YES	IF ANSWER IS NO
<p>5. Is the cotton of staple length under 1 1/8 inch, as detailed in Chapter 52 US Note 5(b)?</p> <p>(a) Is it from a country listed in this note which has a share of the quota quantity and is that country's allocation still open?</p> <p>(b) Is it from a listed country which has a share of the quota quantity and is the aggregate quota quantity excess quota (the total quota amount minus all the country allocations) still open?</p> <p>(c) Is it from a country not listed in this note and is it a WTO country and is the total quota quantity still open?</p>	<p>Go to question 5(a)</p> <p>Enter under 5201.0014 (duty free)</p> <p>Enter under 5201.0014 (duty free)</p> <p>Enter under 5201.0014 (duty free)</p>	<p>Go to question 6</p> <p>Go to question 5(c)</p> <p>Go to question 5(c)</p> <p>Enter under 9904.5201-9904.5209 depending on value, paired with 5201.0018 ("over-quota" duty rate plus additional duty)</p>
<p>6. Is the cotton harsh or rough, as detailed in Chapter 52 US Note 6(b)?</p> <p>(a) Is it from a WTO country and is quota still open?</p>	<p>Go to question 6(a)</p> <p>Enter under 5201.0024 ("in-quota" duty rate)</p>	<p>Go to question 7</p> <p>Enter under 9904.5210-9904.5216 depending on value, paired with 5201.0028 ("over-quota" duty rate plus additional duty)</p>
<p>7. Is the cotton of staple length 1 1/8 inch or more but less than 1 3/8 inch, as detailed in Chapter 52 US Note 7(b)?</p> <p>(a) Is it from a WTO country and is quota still open?</p>	<p>Go to question 7(a)</p> <p>Enter under 5201.0034 ("in-quota" duty rate)</p>	<p>Go to question 8</p> <p>Enter under 9904.5217-9904.5223 depending on value, paired with 5201.0038 ("over-quota" duty rate plus additional duty)</p>
<p>8. If you have arrived at this question, the cotton is of staple length 1 3/8 inch or more, as detailed in Chapter 52 US Note 8(b).</p> <p>(a) Is it from a WTO country and is quota still open?</p>	<p>Enter under 5201.0060 ("in-quota" duty rate)</p>	<p>Enter under 9904.5224-9904.5234 depending on value, paired with 5201.0080 ("over-quota" duty rate plus additional duty)</p>

Further Information

The Customs Electronic Bulletin Board (CEBB) is an automated system which provides the entire trade community with current, relevant information regarding Customs operations and items of special interest. It was established as another effort to promote the Customs Service as "trade friendly" within the importing and exporting community. The CEBB posts timely information including proposed regulations, news releases, Customs publications and notices, etc which may be "downloaded" to your own PC. The Customs Service does not charge the public to use the CEBB. You only pay telephone charges. To use the CEBB, you must have a personal computer with a modem. The CEBB supports modem speeds from 2400 to 14,400 baud. Set up your terminal as ANSI, set databits to 8, set parity to N and stopbits to 1. Dial (703) 440-6155 and log on with your name and choose a password. After a few questions, you are set to get up-to-date information from Customs. If you have any questions about the CEBB, call (703) 440-6236.

Additional information may be obtained from Customs ports of entry. Please consult your telephone directory for a Customs office near you. The listing will be found under U.S. Government, Treasury Department.

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